

RECEIVED
CENTRAL FAX CENTER

AUG 25 2005



Wiesner & Assoc.

F A X C O V E R

Date:	08 25 2005
Send to:	USPTO
Attention:	Office of Petitions
Office location:	
Fax number:	571-273-8300
From:	Leland Wiesner
Office location:	
Phone number:	650-853-1113

URGENT REPLY ASAP PLEASE COMMENT PLEASE REVIEW FOR YOUR INFORMATION

TOTAL PAGES, INCLUDING COVER:5 Re: Renewed Petition under CFR 1.137 for 10/695,888

Comments:



Wiesner & Assoc.

Business Address: 366 Cambridge Avenue

Palo Alto, CA 94306 USA
Email: leland@wiesnerlegal.com

Phone: 650-853-1113

Fax: 650-853-1114

AUG 25 2005

PTO/SB/21 (05-03)

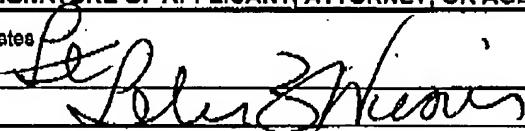
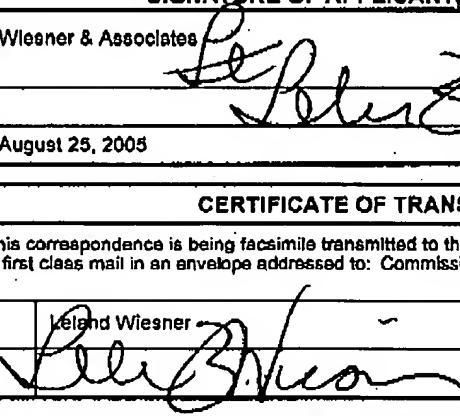
Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paper Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>		Application Number 10/695,888
		Filing Date Oct 28, 2003
		First Named Inventor Nguyen, Tuan
		Art Unit
		Examiner Name
Total Number of Pages in This Submission		Attorney Docket Number 00121-000800000

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Renewed Petition under CFR 1.137(b), <input type="checkbox"/> PTO form2038, copy of USPTO notice		
Remarks Renewed Petition under CFR 1.137(b)		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Wleener & Associates 
Signature	
Date	August 25, 2005

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.P. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Type or printed	Keland Wiesner	Date	August 25, 2005
Signature			

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

In you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

**RECEIVED
CENTRAL FAX CENTER**

AUG 25 2005



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Office Of Leland Wiesner
1144 Fife Ave.
Palo Alto, CA 94301

COPY MAILED

AUG 04 2005

OFFICE OF PETITIONS

In re Application of
Tuan Nguyen, et. al.
Application No. 10/695,888
Filed: October 28, 2003
Attorney Docket No. 00121-000800000

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on March 2, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed June 2, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight August 2, 2004.

In response to the Notice to File Corrected Application Papers, petitioner submitted an authorization to charge \$1,330 for the petition to revive fee, \$65 for a late filing surcharge, nine (9) sheets of replacement drawings containing Figures 1-9, and the statement of unintentional delay.

Since the petition contains an assertion that this application is other than small entity, status as a small entity has been removed and the petition fee will be charged as a large entity. If this is an incorrect interpretation, than petitioner must notify the Office immediately.

Petitioner should note that effective December 8, 2004, the large entity unintentional petition to revive fee was increased to \$1,500 and the large entity surcharge for the late filing fee or oath is \$130. Since the Notice did not require petitioner to submit a surcharge for the late filing, this fee is unnecessary and will not be charged to petitioner's deposit account.

The petition is dismissed.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

**RECEIVED
USPTO
8-25-05**

Application No. 10/695,888

Page.2

With respect to item (2), the deposit account listed in the petition contains insufficient funds. Therefore, petitioner must submit \$1,500 for the petition fee before this application can be revived.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

ASmith
Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Leland Wiesner
366 Cambridge Avenue
Palo Alto, CA 94306